

**THE VENDING OVERSIGHT COMMITTEE’S
REGULATIONS GOVERNING VENDING
ON THE
STATE STREET MALL/CAPITOL CONCOURSE**

Established pursuant to sec. 9.13(6)(c) Madison General Ordinances
Current through Resolution No. RES-18-00527, enacted July 13, 2018

I. PURPOSE, AUTHORITY, APPLICATION.

The purpose of these regulations is to assure the orderly performance of selling on the State Street Mall/Capitol Concourse; to exclude the sale of commercially-grown, manufactured or processed goods or services in order to retain the unique character of and enhance the public use and enjoyment of the State Street Mall/Capitol Concourse area. A further intent is to encourage the Street sale of arts, crafts and personally prepared food in keeping with the intended use of the State Street Mall/Capitol Concourse by the public.

These regulations are established pursuant to sec. 9.13(6)(c) of the Madison General Ordinances. In the event that any part of sec. 9.13 (except those sections which apply only to areas other than the State Street Mall/Capitol Concourse area) conflicts with these regulations, sec. 9.13 shall be controlling.

These regulations apply only to vending within the State Street Mall/Capitol Concourse Area as defined in sec. 9.13(6) of the Madison General Ordinances.

II. FOOD AND CRAFT VENDING SITES

A. Location of Vending Sites.

The location of the food and craft vending sites on the State Street Mall/Capitol Concourse shall be determined by the VOC and set forth in the attached vending site map, Exhibit 1. Changes to the location of vending sites on the Mall/Concourse may be recommended to the VOC by the Vending Coordinator or designee of the Department of Planning and Development. The VOC is authorized to approve changes to Exhibit 1 by a majority vote under its usual procedures. Any such changes shall take effect 10 business days after the VOC meeting where the change was approved. An updated copy of the revised vending site map (Exhibit 1) showing the date of approval by the VOC, shall be made available at the Department of Planning and Development and provided to the City Clerk.

B. Number of Vending Sites:

1. Daily Vending Sites (7 days per week). The maximum number of daily vending sites for food (electrical and non-electrical) and craft vendors on the Mall/Concourse, shall be specified on Exhibit 1. The maximum number of food vending sites using electricity will be limited based upon the availability of electrical outlets.
2. Saturday Only Vending Sites: Additional Saturday-only vending sites for food and craft vendors, shall also be specified in Exhibit 1.
3. Changes to the Number of Vending Sites. The VOC is authorized to approve changes to the maximum number of daily and Saturday-only food and craft vendor sites (on Exhibit 1) by a majority vote under its usual procedures. Any such changes shall take effect 10 business days after the VOC meeting where the change was approved. An updated copy of the vending site map (Exhibit 1) showing the date of approval by the VOC, shall be made available at the Department of Planning and Development and provided to the City Clerk.

C. Vending Site Size

There shall be two sizes of vending sites. The smaller shall be a maximum of four (4) feet by eight (8) feet. The larger shall be a maximum of ten (10) feet by twelve (12) feet. For all vending sites, the site shall be positioned with the longer dimension running parallel to the adjacent street. Each site shall be designated by physical marks and letters and/or numbers on the pavement.

D. Maintenance of Through Ways

All vendors must operate entirely within the limits of the designated, officially approved, vending sites.

E. Classification of Vending Sites

There shall be two (2) classifications of vending sites:

1. Vending sites for the sale of handcrafted goods (Craft vending sites). Craft vending sites shall be of three categories: Regular craft vending sites, Spray Paint Artist sites, and craft sites for the sale of handcrafted goods by Senior Citizens (i.e., licensed arts and crafts vendors who are 60 years of age or older).
2. Vending sites for the sale of personally prepared food and beverages (food vending sites).

F. Allocation and Assignment of Vending Sites

1. Arts & Crafts. All Mall/Concourse Arts and Crafts vending sites shall be numbered and designated as Daily or Saturday-only sites, as shown on Exhibit 1. All Arts & Crafts vending sites (Daily and Saturday) are available to be reserved for an additional reservation fee by vendors purchasing an annual Arts & Crafts license. The annual license fee and additional reservation fees are described in sec. 9.13(6)(h). The following procedure applies to all Arts & Craft vendors, except for Spray Paint Artists, whose sites shall be assigned according to Section II.F.1.e.

a. Reserved Sites, Seniority. Vendors requesting a reserved Arts and Crafts vending site (Daily or Saturday) will be assigned a site according to their seniority. Seniority shall be calculated by counting the number of vending seasons that the vendor has purchased and used a Mall/Concourse Arts and Crafts Vending License (of any duration), counting backwards from the present. The vending season is from April 15 to April 14.

Sabbaticals. However, a vendor may take one (1) vending season as a sabbatical (not purchase a license that season) without losing seniority, but that year will not be counted toward the vendor's total number of years of seniority. However, if a vendor takes two (2) sabbaticals in a three (3) year period, the vendor will lose all years of seniority and upon applying in the future for an Arts and Crafts vending license, that vendor will begin with zero years of seniority and be placed at the bottom of the seniority rank list.

Determining Seniority for Shared Arts/Crafts Vending License. If two individuals share a vending license as authorized by Sec. 9.13(6)(e)1.a., seniority will be calculated as follows:

1. When applying for a reserved Arts/Crafts vending site assignment (Daily or Saturday) the seniority of the more senior vendor will be used to determine the pair's ranking.
2. When using an unassigned/unreserved site under section F.1.b., the seniority of the vendor who is present on a particular day (Daily or Saturday) will determine the seniority ranking for purposes of choosing an unassigned site that day.
3. When moving into a reserved site that is unoccupied by the assigned vendor for the day under F.1.b., the seniority of the vendor who is present on that day (Daily or Saturday) will be used to determine seniority ranking for purposes of moving into the unoccupied site that day.

Tie-Breakers: If more than one vendor share the same number of years of seniority, rank order will be determined by the date and time of day the license is created, or

a coin toss conducted by the Vending Coordinator or designee if the date and time of the license is not available.

Rank-Ordered List: Each vending season, a rank-ordered list will be established with the vendor with the highest seniority ranked number 1, and so on. Each vendor will be assigned a number to indicate their rank. Each vendor shall indicate three site preferences on their Application for Mall/Concourse Craft Vendor License. The Director of the Department of Planning and Development, or designee, shall assign sites beginning with the highest-ranking vendor assigned to his/her first preference, the next-highest ranking vendor assigned to his/her first preference, or if that site has already been assigned, his/her next-highest preference, and so on; until all qualified applicants have received an assigned site or all sites have been filled.

b. “Floater” Procedure:

- i. **Reserved Daily Sites:** The seniority rank number will also be used to determine which vendor has priority to occupy another vendor’s reserved Daily site, if the assigned vendor does not occupy the site on a particular day. If a reserved craft vendor site in the 400, 500 or 700 blocks of State Street (i.e. Daily sites) remains unoccupied by 11:00 a.m. another craft vendor may occupy that site for the day using the seniority system established above.
- ii. **Unassigned daily craft vendor sites** that have not been reserved with a reservation fee may be occupied on a day to day basis by licensed arts & craft vendors on a first come, first served basis. The seniority system in section II.F.1.a. will be used to determine which vendor has priority to occupy an unassigned site, except that a vendor who has paid the reservation fee for a reserved site will have priority, as determined above, over less-senior craft vendors or any craft vendor without a regular (reserved) assigned site.
- iii. **Unoccupied or Unreserved Saturday Vending Sites.** If a craft vendor holds a reserved/assigned Saturday site and does not occupy his or her assigned site by 7:30 a.m., another licensed craft vendor may occupy the unoccupied site instead of his/her assigned site. If more than one craft vendor is interested in the unoccupied site, the vendor with the most seniority, as determined in sec. II.F.1.a. above, may occupy the site. The same procedure shall apply

to craft vendors wishing to occupy unreserved/unassigned Saturday sites. Additionally, Craft vendors may occupy unassigned Food vendor sites with the previous written approval of the Director of the Department of Planning and Development, or designee.

- iv. Arts/Crafts vendor using unoccupied Food Vending site (Saturday only.) If an assigned Saturday-only food vending site remains unoccupied, as defined in sec. III.E., by the assigned vendor as of 7:30 a.m., an Arts and Crafts Vendor may use that site for the day.
- c. Senior Citizens. There shall be two Senior Citizen vending sites reserved exclusively for vending by licensed arts and crafts vendors who are 60 years of age or older. These vending sites shall be available to such vendors on a first come, first served basis.
- d. Food. Food vending sites shall be assigned on an annual basis using the review rating obtained at the Fall food vending review, the additional criteria set forth below and the site preference list submitted by the vendor, or upon filling a vacancy under section III. D.
- e. Spray Paint Artist Sites: The Vending Coordinator shall recommend to the VOC for approval not more than two (2) Arts & Crafts vending sites of 10 feet by 12 feet for licensed Arts & Crafts vendors to operate as Spray Paint Artists. A vendor may prepare and sell homemade paintings or drawings, as defined herein, by applying spray paint to paper, fabric or other media at the vending site, in accordance with the following:
 - i. Vendor may only use cans of aerosol spray paint that comply with all applicable health, fire and environmental codes. No power equipment of any kind shall be used to dispense or apply the paint, such as air-brushing and/or air compressing equipment.
 - ii. All spray paint activities shall be conducted entirely within the boundaries of the designated Spray Paint Artist vending site.
 - iii. The vendor shall keep the site prepared and protected to assure that no paint or other substance gets on the sidewalk, terrace, street surface,

landscaping of any kind, amenity or any other surface or equipment, whether publicly or privately owned. Any paint or other substance found on or near the vending site shall be presumed to have resulted from the vendor's spray painting operation.

- iv. Spray paint art prepared and sold at the site must meet all other definitional requirements for homemade/handcrafted goods established elsewhere in these Regulations and sec. 9.13 of the Madison General Ordinances.
- v. If using paint or substance that results in a "flammable finish" as defined in Chapter 15 of the International Fire Code adopted through Chapter 34 of the Madison General Ordinances ("IFC"), the aggregate surface area to be sprayed shall not exceed nine (9) square feet in area (IFC 1504.9.1.)
- vi. If using paint that meets the definition of a "flammable liquid," "combustible liquid," or results in a "flammable finish," as defined in the International Fire Code:
 - a. No sources of ignition, such as electrical equipment or wiring, as defined in the International Fire Code, are allowed in the site or within five (5) feet of the site. Vendor shall post a sign to inform persons who gathers around the site of this rule and if a person violates it, cease spray paint activities until the person leaves or removes the source of ignition. Vendor or the person violating the rule can be cited for violating this paragraph or the fire code.
 - b. No smoking of any kind, open flames or sparks are allowed within the site or within twenty (20) feet of the site. Vendor shall post the site with "No Smoking" sign(s) as required by the IFC and include the 20-foot rule on the sign and if any person violates it, vendor will cease spray paint activities until the person leaves or extinguishes the source of smoke, flame or sparks. Vendor or the person violating the rule can be cited for violating this paragraph or the fire code.
- vii. Crowds at Vending Site. The VOC will choose the location of Spray Paint Artist sites to minimize interference with other vendors, merchants and

building occupants, and to allow sufficient sidewalk area for vendors' customers to watch the vendors paint without blocking sidewalk access. However, it is the vendor's responsibility to ensure that a crowd does not gather to the point that pedestrian traffic is obstructed. An unobstructed walkway of not less than six (6) feet shall be maintained between any person gathering at the vending site and the adjacent curb. Vendor is responsible to monitor crowd size and if necessary, ceasing spray paint activities until the crowd size is reduced or the obstruction cleared. Vendor or the person violating the rule can be cited for violating this paragraph or other applicable ordinances such as obstructing the sidewalk.

- viii. Spray Paint Artist Site Assignment: Spray Paint sites will be available on a first-come, first-served basis to vendors holding an annual or monthly Arts and Crafts Vending license. A licensed Arts/Crafts vendor may apply with the Vending Coordinator at any time after January 1 for the upcoming vending season (April 15-April 14), stating the vendor's site preference. If both Spray Paint Sites are assigned for the entire vending season (or for the month for which a monthly license-holder is requesting a site) a waiting list will be established. If a Spray Paint Site becomes available during the vending season, it will be offered to the first vendor on the waiting list, and so on.

III. ADDITIONAL PROCEDURES FOR FOOD VENDING SITE ASSIGNMENT

The following procedures shall be used for assigning the food vending sites:

- A. Application. An application meeting the general requirements in Section XI and containing the information and materials specified in subsection B. below shall be made to the Director of Planning and Development, or designee by August 1 for the Fall Food Vending Review and applications to fill any vacancies remaining after the Fall Food Vending Review shall be filed by March 31.
- B. Supplementary Information, Site Requests. Along with the application and any other information requested by the Director of Planning and Development, or designee, or the Vendor shall submit a list of preferred vending sites in order of preference; a list of all citations and civil complaints within the previous twelve (12) months issued to any vendor, individual primary vendors(s) to be named on the license and any citation(s) issued to any individual for vending without a

vending license at the vendor's site with the vendor's permission within the same period; and each individual vendor's seniority as defined in Section to IV.A.1. Also, relevant informational materials must be provided to enable the Review Panel to assess the degree and manner of the applicant's fulfilling the criteria set forth in Section IV.

- C. Fall Food Vending Review. All applicants for Mall/Concourse Food Vendor licenses, including returning Mall/Concourse food vendors, shall be required to participate in an annual Food Vending Review. The Food Vending Review shall be conducted every year over a four-week period, beginning on the first Monday after Labor Day and continuing for a total of 4 weeks. During these weeks, reviews may take place on Monday through Friday between 11:00 a.m. and 2:00 p.m., and on Saturday between 9:00 a.m. and 1:00 p.m. and all participating vendors shall be open and operating during these hours. In the event of severe weather, specific review days may be rescheduled upon notice to all participants. Returning food vendors will be reviewed in their regular sites during their regular business hours. New applicants will be assigned a site by the Street Vending Coordinator for review on not less than two (2) designated Saturday(s) as determined by the Street Vending Coordinator.

Demerit points for missing review days: Participants will be penalized for missing assigned days of the Food Cart Review as follows:

- Existing Monday-Friday vendors will be allowed a grace period of 2 days and will be penalized 1 demerit point for each review day missed in excess of 2 days.
- Existing Saturday vendors: will be allowed a 1-day grace period and penalized 1 demerit point for each Saturday missed in excess of 1 day.
- New applicants: no grace period, 1 demerit point for each assigned day missed.

FOOD CART REVIEW ELIGIBILITY:

1. The Fall Food Vending Review shall be open to all new applicants and currently licensed food vendors, otherwise eligible under ss. 9.13(6)(i)2.a. and 9.13(8)(a), who have obtained all necessary food and drink inspections, licenses and permits required by Public Health-Madison and Dane County ("PHMDC"), have committed no significant health violations (defined in sub. 2. below) and received not more than two (2) vending citations or complaints within the period of September 1- August 31 immediately preceding the review. "Complaint" for purposes of this section shall mean a civil prosecution for an ordinance or regulation violation initiated by complaint under sec. 800.02, Wis. Stats.

Required Health Department licensing: Returning and first time participants shall obtain all necessary inspections, license and/or permits for a mobile food cart from Public Health-Madison and Dane County no later than five

(5) business days prior to the first day of the review. The applicant is responsible for arranging all necessary inspections with PHMDC.

2. A “significant health violation” shall mean any violation of safe food storage and handling ordinances or regulations which resulted in the issuance of one (1) or more citation(s) or complaint(s) between September 1 and August 31 immediately prior to the review date; including but not limited to: violations of Chapter 7 of the Madison General Ordinances, selling non-personally prepared food contrary to Sec. 9.13(6)(b); and permitting an unauthorized person to vend food contrary to Sec. 9.13(4)(p).
3. Site assignments shall be made on the basis of the review panel rating using the criteria and scoring system set forth in Section IV.; and the site preference list submitted by the vendor, except that a vendor who participates in the Fall Food Vending Review must obtain a review rating of at least 70 out of 100 possible points to be eligible to receive a site assignment at that time.

D. Unassigned Food Vending Sites Available to Qualified Returning Vendors. If any food vending sites remain unassigned (for the upcoming vending season) after the completion of the Fall Food Vending Review, but before March 31, qualified returning food vendors may apply for the unassigned site(s) by filing an application under sec. XI. This procedure is only available through March 31 and applications must be filed by March 31 to qualify for this procedure. Any such unassigned sites (in the upcoming vending season) may be filled by a qualified returning food vendor upon the recommendation of the Street Vending Coordinator with the approval of the Vending Oversight Committee (“VOC”) and the decision must be made with notice to the applicant by April 15. The process under this paragraph shall not be used if more than one returning vendor applies for the same vacant site. A “qualified returning food vendor” under this paragraph is one who meets the following criteria:

1. The vendor must have participated in the previous season’s Fall Food Vending Review, or Spring Review if one was conducted, and obtained a score of 70 or higher, or a satisfactory score under previous scoring systems, and
2. There must be no significant changes to the cart or apparatus, and
3. There must be no significant changes to the menu, and
4. The vendor must not have received any citations, complaints, or demerits within the last 12 month period, as described in sec. IV. D.; and

5. The vendor must be available to appear before the VOC to describe the vendor's proposal for operation and menu, and present photographs of the cart or apparatus if requested.

E. Definitions. For purposes of Mall/Concourse Food Vendors, the following terms shall have the meanings defined below:

"Vending Season:" April 15-April 14

"Unassigned Site:" A food vending site created by the VOC and listed on the official map (Exhibit 1) but that has not been assigned to a vendor for the next vending season after the completion of the Fall Food Vending Review. An unassigned food vending site for the next vending season is eligible for assignment to a food vendor only under Section III.D. If an unassigned site is not filled under the procedures of Sec. III.D., it becomes a Vacant Site.

"Vacant Site:" A food vending site created by the VOC and listed on the official map (Exhibit 1) that has not been assigned to any food vendor during the vending season in question. A site is also considered vacant if any of the following happens during the vending season: it is officially relinquished or forfeited, the vendor's license is revoked, or a new site is created. A Vacant food vending site is eligible for assignment only under Section V.E.

"Unoccupied Site:" A food vending site that has been assigned and accepted by a properly licensed food vendor for the vending season in question but not occupied by the vendor on a specific day. An Unoccupied food vending site may be used temporarily for the day by a food vendor who has permission of the vendor to whom the site is assigned, or by an Arts and Crafts vendor under the procedures in Section II.F.1.b.iv.

IV. FOOD VENDING REVIEW JUDGING GUIDELINES AND SITE ASSIGNMENT CRITERIA

- A. Initial Application Review. The Director of Planning and Development, or designee shall review all applications for completeness and for compliance with cart specifications; equipment standards; electrical needs and standards; insurance; and vendor and menu restrictions. Applications shall also include proof that the applicant has obtained from PHMDC all required food and drink license(s) or permit(s) necessary to operate a mobile food cart. PHMDC approval of the base kitchen and cart is required to serve food to reviewers or offer food for sale during the review period. The Director of Planning and Development, or designee shall promptly notify the applicant of his/her seniority points, violation demerit points and any deviations from or failure to meet the aforementioned specifications, standards and restrictions. Such notice shall be given in writing at least fourteen

(14) days before the scheduled Food Review and shall advise the applicant of the limited right of appeal set forth in Section V.G. below.

1. Seniority. Seniority points are determined by the number of vending seasons that the vendor has purchased and used a Mall/Concourse Food Vendor License (of any duration) counting backwards from the present, up to a maximum of five (5) years. Seniority is not transferrable.

How to calculate Seniority for Mall/Concourse Food Vendors:

Not purchasing the license, forfeiting a site assignment or forfeiting the license for the vending season, or failing to vend at all during the vending season will count as a year off. However, a vendor may take one (1) vending season as a sabbatical (not purchase a license that season) without losing seniority, but that year will not be counted toward that vendor's total years of seniority. If a vendor takes two (2) sabbaticals in a three (3) year period, the vendor will lose all years of seniority and be placed at the bottom of the seniority list upon their next application for a site.

In addition, a Mall-Concourse Food Vendor will lose all years of seniority if all of the four following changes occur during the same vending season:

- The name of the food cart or food tent, as specified on the application and resulting license, has changed.
- The owner of the food cart or food tent, as specified in the application and resulting license, has changed.
- A change in the overall design and appearance of the food cart or food tent (other than changes resulting from maintenance or repairs.)
- The menu has changed. (This does not include a "minor menu change" for which approval has been granted under sec. XII.D. This also does not include a menu change that is approved through the Food Cart Review process, unless that change is also accompanied by a change in all of the other factors listed in this section.)

Tie Breaker. Seniority may be used as a Food Cart Review scoring tiebreaker. If more than one Mall/Concourse Food Vendor share the same number of years of seniority, rank order will be determined by the date and time of day the license is created, or by a coin toss conducted by the Vending Coordinator or designee if the date and time of the license is not available.

2. Violations/ Demerit Points.

Citations/Ordinance Violations: Violation demerit points are determined by calculating the total number of violations by the vendor of sec. 9.13, the regulations adopted therein, or the other ordinance violations listed in Sec. 9.13(8)(a) Madison General Ordinances issued to the applicant between September 1 of the previous year to August 31 of the year the Review is held. Each such violation considered shall be documented by a citation/civil complaint.

Other Violations/Demerit Points:

- Missing any day of the Food Cart Review as described in sec. III.C.
- Failure to vend or discontinuance of any item listed on the application or a substantial change in vending presentation where a vendor's past rating was based in whole or in part on the quality and uniqueness of the item(s) either not sold or discontinued or on the quality or uniqueness of the vending presentation either abandoned or substantially changed. Such material change shall be grounds for suspension of the Mall/Concourse Vending License. Any applicant for license renewal who shall have been suspended for such reason during the previous vending year shall be penalized twenty (20) demerit points in the next food review process.
- Additionally, five (5) demerit points will be assessed for any of the following:
 - if a vendor has had his/her **vending cart or mobile base kitchen ordered by the public health department to suspend or cease all operations** for seven (7) or more consecutive days in the previous vending season.
 - if a vendor has had his/her **food and drink permit suspended or revoked** for a period of seven (7) or more consecutive days during the previous vending season.

- B. Review Panel. The Food Vending Review Panel ("Review Panel") shall be recommended by the Street Vending Coordinator and appointed by the Chairperson of the VOC and shall consist of not fewer than fifteen (15) people, at least one (1) of whom shall be a member of the VOC, except that Non-Voting Technical Advisors who are currently licensed as a Food Vendor or participating in the Fall Food Cart Review are not eligible. Panel members shall represent a diverse and varied cross section of the community. Panel members shall have term limits of five (5) years. The Review Panel shall review returning and new applicants for food vending licenses using the criteria and specific scoring system described in these Regulations.

Training for Review Panel: Each year, prior to reviewing any food carts, the Review Panel members shall attend a training session provided by the City, which shall include but not be limited to the following topics: the criteria in Appendix A (see below), rules for conducting the review, when and how to order, the importance of tasting food while it's fresh, how to judge the food including information to guide reviewers in assigning scores based on taste, presentation,

appearance; how to judge the apparatus and equipment. The City shall consult members of the food industry and other industry professionals for input in designing the training curriculum.

- C. General Review Criteria. The Review Panel shall consider the degree and manner the applicant's apparatus and products enhance the purposes of the Mall/Concourse as set forth in 9.13 of the Madison General Ordinances and regulations adopted pursuant thereto. Reviewers shall consider specific criteria designed to further these purposes, set forth in Appendix A "Food Vending Review Score Sheet Criteria," which may be updated by the Street Vending Coordinator with input from food industry professionals but consistent with the requirements of these Regulations; including but not limited to the overall integrity of the operation, quality and uniqueness of menu items, food presentation, cleanliness and maintenance, and originality and aesthetic appeal of the cart or apparatus design and accompanying signage.
- D. Scoring System. The Review Panel shall rate and score food and cart/ apparatus presentation using a rating of 100 possible points, with 100 being the best possible score. The reviewers shall use a score sheet to award points as follows:
1. Food Category - zero to forty (0-40) points.
 2. Cart/Apparatus Category - zero to forty (0-40) points.
 3. Originality Category - zero to twenty (0-20) points.

The criteria for awarding points in each category shall be provided to the reviewers as set forth in Appendix A. Reviewers shall assign points in each of the above three categories and combine them for a total score for each applicant vendor reviewed.

- E. Final Score Tabulation.
1. Score Sheets. Each review panelist must evaluate at least 80% of the applicant vendors in order for that reviewer's score to be included. Reviewers shall use a score sheet created by the Street Vending Coordinator for this purpose.
 2. Raw Average Score. From those score sheets, the Director of the Department of Planning and Development, or designee, shall compute the average score for each applicant vendor, discarding the highest and lowest score for each applicant.
 3. Demerit Points and Adjusted Average Score. The designee shall then subtract any demerit or violation points calculated under sec. IV.A.2. to arrive at an adjusted average score.

4. Ranking List Step 1. A list from highest to lowest adjusted average scores shall be created corresponding to the number of Mall/Concourse Food Vending site available (see example below). Applicants must have an adjusted average score of at least seventy (70) points to be included on this list and proceed to Step 2 (final ranking process). Any eligible applicants that do not make this first list shall be placed on a waiting list.

Example:

If there are 40 total Mall/Concourse Food Vending sites available, and 50 applicants participate in the Food Review and receive a score of 70 or higher, only the top 40 scoring applicants at this stage are eligible to proceed to final ranking for a site assignment.

5. Ranking List Step 2: Seniority and Final Rank Order List. The designee shall add any seniority points to the adjusted average score of those applicants who made the list in Step 1 to create a final rank-ordered list, as follows: one (1) point for each year of an applicant's seniority (calculated under sec. IV.A.1.), with a maximum of five (5) seniority points per vendor. The designee shall use this final score to establish a final rank-ordered list for use in the final site assignment process. Applicants will be offered a site according to their rank based upon first, second and third-choice site preferences listed on the Application form.

6. Waiting List. Those eligible applicants who did not make the list in Step 1 shall be placed on a waiting list in the order of their adjusted average score. If a site opening occurs, the Vending Coordinator will offer the site to existing vendors on the Final Rank Ordered List, according to their rank, using procedures established elsewhere in these Regulations. If no vendors on the Final Rank Ordered List accept the site, the site will be offered to those on the waiting list. No seniority points will be added to applicants on the waiting list, rank order for waiting list purposes shall be based on the adjusted average score in Step 1.

V. FOOD VENDOR SITE ASSIGNMENT

A. Site Assignment Based on Food Cart Review. The Director of the Department of Planning and Development, or designee, shall assign food vending sites beginning with the highest-scoring vendor on the Final Rank Ordered List assigned to his/her first preference, and the next highest-scoring vendor assigned to his/her first preference, or if that site has already been assigned, his/her next highest-preference, and so on; until all sites are filled. In addition, the designee of the department may consider whether the site assignments under the above system result in an inappropriate mix and balance, and may, upon consultation and approval of the applicant vendors affected, rearrange site assignment to achieve an appropriate balance. The designee may consider the extent to which the food sold at one site is different from that sold at adjacent sites or otherwise proximately available, and the designee may give great consideration to maintaining the diversity of vending

in order to achieve a better balance of vendors and products so as to better serve the public.

- B. Applicant Notification and Acceptance of Site. The Director of Planning and Development, or designee, shall establish and post with the City Clerk the Final Rank Ordered List, a list of site assignments, and the waiting list (if any) of those applicants remaining from Step 1, within ten (10) business days of the last day of the Fall Food Review. The departmental designee shall notify the applicants by mailing (electronically or on paper) such list to all food vendor applicants within three (3) working days of the posting of the list. Written acceptance of the site assignment is required before a license can be issued.

Failure to accept the assigned site or appeal the score on the limited basis set forth in Section V.G. in writing within ten (10) calendar days of the date of the notice, shall be deemed a forfeiture of the vending site. Failure to obtain all required licenses by April 15 shall be deemed a forfeiture of the vending site.

Written acceptance (paper or electronic) of the site assignment is required before a license can be issued.

- C. (Reserved)

- D. Failure to use site. During the vending year, any food vendor with an assigned site who is unable or does not wish to use the site shall notify the Director of Planning and Development, or designee immediately that the site is being relinquished. Failure to use the assigned site by June 1st shall be considered relinquishment of the site and may result in the site being reassigned to another vendor for the remainder of the vending season.

- E. Filling Vacant or New Sites During the Vending Season. When an assigned site is forfeited, relinquished, created, or otherwise becomes permanently vacant during the vending season, (April 15-April 14) the departmental designee shall inform all currently licensed Food Vendors of the vacancy. The responding food vendor with the highest score on the Final Rank Ordered List from the previous food cart review shall be assigned the site for the remainder of the vending season. Any subsequently vacated site shall be assigned using the same process until all food vending sites are filled. If vacant site(s) remain after this process, the departmental designee may offer the site to applicants on the waiting list according to their position on the waiting list or, on November 1 or later, to a new food vendor who has completed the Fall Food Cart Review and qualified for a license, as described below.

Procedure to fill vacant or new food vending sites during vending season: If a food vending site is or becomes vacant (as defined in Sec. III.E.) any time during the vending season, the site shall be offered to currently-licensed food vendors or waiting list applicants under the procedures in Paragraph E. above. Beginning November 1 or later, if no such vendors are interested in the vacant site, the site

may be offered to a first-time Mall/Concourse Food Vendor applicant who successfully completed the Fall Food Cart review and received a site assignment for the next vending season. The new vendor may be assigned to the vacant site and begin daily vending from that site on November 1 or later. New vendors wishing to use this option must purchase all necessary vending licenses for the current season. The Mall/Concourse Food Vending license fee shall be prorated as set forth in Sec. 9.13(6)(h)3.a., MGO.

See Section III.D. for filling sites that remain unassigned after the Fall Food Review, for the upcoming vending season.

F. Transferability of Site Assignments.

1. Transferability. Mall/Concourse Food Vending Site assignments are nontransferable between vendors and shall be valid for the duration of the vending year, except as provided by ordinance or herein. A Mall/Concourse Food Vendor shall only use the site to which s/he was assigned after the most recent Food Cart Review, or under paragraph E. above (“Filling vacant or newly-created sites.) A vendor shall not occupy more than one (1) Mall/Concourse vending site at any given time.

2. Moving into Unoccupied Site During Current Vending Season. The definitions for “unassigned,” “vacant” and “unoccupied” sites in Sec. III.E. apply to this section.

A currently-licensed food vendor with an assigned site on the Mall/Concourse may use another vendor’s assigned but unoccupied site for the day, only with the prior permission of that vendor. The City will confirm whether such permission was given by contacting the vendor of the unoccupied site.

G. An applicant may appeal to the VOC from the determination of the Director of Planning and Development, or designee, made pursuant to Section IV.A., D., or E. above solely on the grounds of food review score computation error, error in measurement or in the calculation of the applicant's seniority or number of demerits or violations, provided that such appeal must be made prior to site assignment. Appeals shall be made in writing to the departmental designee who shall review the alleged error and if the designee and applicant agree on a solution, the designee shall correct the error and issue a revised Final Rank Ordered list and waiting list (if any). If the parties cannot agree, the designee shall notify the Chairperson of the VOC to place the appeal on the next agenda of the next available VOC meeting, observing the City’s applicable agenda deadlines. The VOC shall consider the appeal under the grounds stated in Section V.G. and if VOC finds an error under Section V.G. the Final Rank Ordered list and waiting list shall be adjusted accordingly.

Final Site assignment (after adjustment pursuant to any successful Sec. V.G. appeal to the VOC) shall be final and not subject to review or appeal under chapter 9 of the Madison General Ordinances or under these regulations.

- H. Food vendors assigned a site shall submit to required inspections by Public Health Madison and Dane County and shall obtain all food and drink permit(s) or license(s) required by law, in addition to all vending permits required under sec. 9.13(6) and herein, prior to participating in the Fall Food Cart Review and prior to commencing any food vending activity from the cart.
- I. (Par. I. deleted by Res. No. 60243, Feb. 18, 2003.)
- J. Definitions. See Section III.E.

VI. REGULATION OF VENDING SITE CLEANLINESS AND SAFETY

- A. Vendors must maintain their vending sites in a clean, litter-free and hazard-free condition.
- B. Food vendors shall provide at least one 10-gallon or larger trash receptacle within their vending site, available for customer use.
- C. Vendors may not use city trash receptacles for the deposit of vendor trash. Food and craft vendors must dispose of their trash outside of the State Street Mall/Capitol Concourse District.
- D. Storage of craft or food items or equipment outside a vending cart is prohibited, with the exception of one thirty (30) gallon covered container securely attached to the vending cart.

VII. NON-CART FOOD VENDOR PHYSICAL SPECIFICATIONS

- A. All food vending shall occur from within a food cart unless approval for non-cart food vending has been obtained from the City of Madison Health Department.
- B. All vending apparatus equipment and stock shall be contained within the food vending site (the dimensions of the specific assigned site, or the maximum food vending site size of 10'x12', whichever is smaller) and shall not exceed a vertical height of ten (10) feet including signage, except that a tent or canopy peak may not exceed a vertical height of eleven (11) feet. In addition, the trailer hitch or "tongue" can extend beyond the actual assigned vending site size provided the tongue is directly pointed toward the pole where electricity for the cart is provided.

- C. The foot print of all vending apparatus and equipment shall occupy no more than fifty-six (56) square feet, provided that this restriction shall not be applicable to non-cart food vendor apparatus in the seven hundred block of State Street.
- D. All vending tables and equipment shall be maintained in good repair and in a safe and sanitary condition.
- E. The vending tables shall be skirted so as to form a contained, skirted vending unit. All inventory, empty equipment and trash shall be stored within the confines of the skirted vending unit and shall not be visible at the site.

VIII. REGULATION OF FOOD AND NON-FOOD VENDING CARTS

- A. Vending Cart. A vending cart is a vending apparatus on wheels.
- B. Physical Specifications - Vending carts shall conform to the following specifications:
 - 1. The vending cart foot-print shall contain no more than fifty-six (56) square feet of area measured on a horizontal plane (exposed trailer tongue, axle and tires excluded). No portion of the cart shall exceed or extend beyond the actual assigned vending site size or the maximum vending site size of 10' x 12', whichever is smaller.

Variance for vending cart size: the Vending Coordinator may approve a vending cart size up to 10% greater than the 56 square foot maximum described above, if all the following criteria are met:

- a. The proposed cart meets all other physical specifications in these Regulations and MGO sec. 9.13.
- b. The proposed cart cannot be modified to reduce the size to 56 square feet (excluding exposed trailer tongue, axle and tires).
- c. The size and shape of the proposed cart will fit within a 10'x12' vending site and shall not be assigned to a site that it cannot fit into, as required by par. 1. above.
- d. The applicant must adequately demonstrate why this cart is necessary for his/her vending operation and why a cart meeting the size restrictions would result in an unnecessary hardship upon the applicant.
- e. The alleged hardship has not been created by the applicant vendor.
- f. The proposed cart was purchased or acquired by the applicant intact or nearly intact.
- g. The purpose of the variance is not based exclusively upon a desire for economic or other material gain by the applicant or owner.

- h. The granting of the variance will not be detrimental to the public safety or welfare, shall not decrease pedestrian or traffic safety, nor be injurious or create a safety hazard for adjacent property owners or to other private or public property in the Mall/Concourse vending area.

A request for a cart size variance must be made with the appropriate vending license application. If the application is for a Mall/Concourse Food Vending Cart, no applicant with a cart larger than 56 square feet may participate in the Fall Food Cart review unless a variance has been granted. The Vending Coordinator shall make a decision granting or denying the variance, in writing. If granted, the variance and total square footage approved shall be indicated on the application and any resulting vending license. If denied, the decision shall specify which criteria were not met. Any Applicant who is adversely affected by the decision of the Vending Coordinator to grant or deny this variance may appeal the decision the Vending Oversight Committee, following the appeal procedures under MGO sec. 9.13(6)(i)2.b. and c., except that the appeal shall be to the VOC only, the VOC shall be the final administrative decision maker for purposes of review in court as may be provided by law, and the VOC shall not report findings to the Common Council. Any action by a person aggrieved by the decision of the VOC under this section shall be filed within thirty (30) days of notification of the decision of the VOC.

- 2. The vertical height of the cart shall not exceed ten (10) feet measured from the ground level to the highest point in the cart including signage or other equipment, if any. However, no signage shall be displayed above the highest point of the cart structure nor shall any signage project horizontally beyond the limits of the cart.
- 3. The vending cart shall not be of a mass produced or prefabricated type.
- 4. The cart shall be maintained in good repair and in a safe and sanitary condition.
- 5. Signage. The vending cart must have a sign prominently displayed that identifies the cart by its business name and a sign that lists all of the food and beverages menu items approved as part of that vendor's Food Vendor license, with prices. The menu sign shall not change from day to day. No other signage is permitted. No signage shall be displayed above the highest point of the cart structure nor shall the signage project horizontally beyond the limits of the cart.

- C. Electricity. Section 9.13(6)(l)2 establishes by ordinance the rules for use of electricity for Mall/Concourse vendors. In addition, the following regulations shall apply:

1. Electrical power will be allowed only in vending sites specifically designated for electricity.
2. There shall be only one electrical connection permitted from the cart to the electricity source at the assigned pole and that connection must run through the cart's circuit breaker. Vendors shall use only their assigned outlet.
3. When using a city-owned electrical receptacle (outlet) on the Mall/Concourse, vendors shall only use those outlets specified in sec. 9.13(6)(1)2.
4. The following power cord specifications are required:

Electrically safe plug cord combination, UL approved for outside use on a 20-amp circuit and shall be twelve (12) gauge wire minimum. It shall be approved for damp locations and hard usage, such as types SO, SJ, SC. The Attachment Plugs shall be approved for damp locations and hard usage. The end of the cord and the cord conductor termination shall be covered or encapsulated to prevent the entry of water.
5. Unless the vendor only uses a generator for power supply, vendors using the City's AC electrical source shall provide a disconnecting means consistent with the following:

A circuit breaker installed in accordance with the National Electrical Code (NEC) not exceeding 15 amps on line between the appliance and the power source (City electrical receptacle).
6. At all times during which a food vending cart is open, the hot water unit, the refrigeration unit and any unit in use as a hot food holding unit must be operational, remain "on" and be connected to its approved power source. Should any one or all of these units become nonoperational, the cart must be promptly closed until such time as the unit(s) are returned to proper operating condition.
7. Generators. In lieu of an AC electrical source, a Mall/Concourse vendor may use one generator operating at 60 decibels or lower.
8. All electrical equipment and wiring in a vending cart, regardless of whether powered by AC or a generator, shall comply with the NEC (National Electrical Code) and rated at 120 volts or more. In the event of a conflict between the regulations in this section and the NEC, the NEC shall control.

D. Vending Cart and Vending Site Signage, Awnings, Etc..

1. The use of canopies, awnings, tents and umbrellas within a vending site shall be such as to maintain a vertical clear space of seven (7) feet measured from ground level to the lowest point of the canopy, awning, tent entrance or umbrella in all areas accessible to customers so as to provide safe pedestrian clearance. The extremities of such canopies, awnings or umbrellas shall not protrude beyond the external boundary of the legal vending site in which they are located.
 2. Signs or other items of equipment, whether of rigid or non-rigid construction, attached to the vending cart shall not exceed the greatest dimensions of the vending cart in any direction and shall be securely fastened to the cart. This does not apply to the trailer hitch, axle and hinged, fold-out counters not exceeding twelve (12) inches, but these also shall be securely fastened to the cart. Signs shall not advertise any other business or product, nor any menu item that was not approved as part of the vendor's Food Review and on the vendor's Food Vendor license.
 3. Any freestanding tent or awning shall be securely anchored and fit totally within the vending site.
 4. Use of canopies, awnings, tents, umbrellas or carts at additional Saturday Vending Sites established in the street at the intersection of State Street/Mifflin Street/Carroll Street is prohibited without the prior approval of the Vending Oversight Committee.
 5. All signage, tents, awnings, umbrellas and canopies must be maintained in good repair.
- E. Fire Extinguishers. All food vending carts shall have on site a fire extinguisher with a rating of at least 2A-10B:C under NFPA Chapter 10, as adopted in Chapter 34 of the Madison General Ordinances. If a food vendor, within or without a cart, operates equipment that uses combustible cooking media (vegetable or animal oils or fats or other oils) a fire extinguisher with a rating of 40B:C under NFPA Chapter 10, as adopted in Chapter of the Madison General Ordinances, shall be kept on site in addition to an 2A-10B:C; or in the alternative, one extinguisher with a rating of at least 2A-40B:C within the ABC class, under NFPA Chapter 10. All fire extinguishers must be annually inspected under sec. 4-4.1 of NFPA Chapter 10, as adopted by Chapter 34 of the Madison General Ordinances.
- F. Non-Food Vending Cart Review. All non-food vending carts must be seen and reviewed for compliance by the Director of Planning and Development, or designee with cart specifications and restrictions before a Mall/Concourse Vending License may be issued or renewed.

IX. MISCELLANEOUS REGULATIONS

A. Restrictions on Mobility

1. Vending equipment and supplies shall be moved into the vending site by 11:00 a.m. if using a vehicle to move it, and manually after 11:00 a.m. Vendors may depart the vending site using a motorized vehicle whenever it is safe to do so, taking care to avoid interfering with pedestrians, and a vehicle may be used at any time in the event of severe weather. Any driving on the sidewalk or pedestrian walkway shall be done at a speed of less than 5 miles per hour and with due regard to the safety of pedestrians.
2. Vending carts, even if mobile, must remain stationary in the vending site for the hours of business. Vending from a pushcart, motorized mobile cart, or bicycle pushcart traveling on the State Street Mall/Capitol Concourse is prohibited, except as permitted in Late Night Vending areas under sec. 9.13(6)(n).
3. Any vehicle used pursuant to IX.A.1. above shall be used solely for the purpose of moving heavy or unwieldy vending equipment and supplies to and from the site, and shall be permitted to remain only so long as it is being actively loaded or unloaded. The maximum loading and unloading time shall be twenty (20) minutes. Thereafter, any such vehicle shall be removed promptly. Under no circumstances shall the vehicle operator engage in vending activities while the vehicle remains at the site.

B. Removal of Carts and Vending Equipment

1. All vending equipment (i.e., carts, tables, apparatus, etc.) shall be removed from the State Street Mall/Capitol Concourse during the hours in which vending is not permitted, as specified in sec. 9.13(6)(l)1. of the Madison General Ordinances.
2. Leaving Vending Equipment Unattended.
 - a. Craft vendors may leave equipment unattended at the vending site for no more than thirty (30) minutes prior to set up and no more than ninety (90) minutes after set up and during lawful vending hours.
 - b. Food vendors may leave the vending site unattended during lawful vending hours for a maximum of ninety (90) minutes.
3. Any time vending equipment or carts are left unattended as provided herein, a "CLOSED" sign shall be prominently displayed and shall also indicate the time of departure and the time of return.

C. Restrictions on Food Preparation, Menu Changes

1. All entree preparation from raw ingredients must be done at the restaurant base. Food handling in the food cart shall be limited to minor food assembly, such as combining previously prepared ingredients for sandwiches or entrees, heating or serving or preparing fruit drinks from fresh fruit. Major food preparation, such as chopping and cooking other than reheating or frying, is strictly prohibited in the food carts.
2. In the event more than one food vendor uses the same restaurant base, each licensed vendor must insure that all its activities remain separate and distinct from the other vendor(s), including but not limited to its business organization, food preparation, inventory and stock.
3. Licensed Mall/Concourse Food vendors shall offer their full selection of menu items approved on their Mall/Concourse Food Vending License whenever operating under that license. Minor changes in menu may be approved by the Vending Coordinator under the process in Section XII.D. herein.

D. Noise Levels at Vending Site

Noise levels emanating from the vending cart or non-cart vending area shall be kept to a minimum, shall not be directed toward the street or sidewalk, and shall be reasonable so as not to disturb the peace and quiet of those in the vicinity, including but not limited to residents, merchants, and customers. No sound amplification shall be permitted at a non-cart vending stand. Vendors utilizing an enclosed vending cart may use amplification inside an enclosed vending cart only, and any music or other audio shall be kept to a volume, such that it cannot be heard outside of the cart beyond the first customer in line at the window or service area.

No audio or video display equipment, including speakers, shall be permitted at non-cart vending stand, nor affixed to or used outside a vending cart. This regulation shall apply in addition to the general rules regarding noise and amplification on the State Street Mall/Capitol Concourse found in Chapter 24 of the Madison General Ordinances. Vendors shall be subject to all applicable City ordinances regarding noise and amplification and this regulation shall not be interpreted to expand or contradict those ordinances. In the event of a conflict, the more strict regulation or ordinance shall apply. This regulation shall apply to Late Night Vendors as well as Mall/Concourse vendors.

X. SATURDAY VENDING SITE ASSIGNMENT (Deleted by RES-15-00473 and reserved for future use.)

XI. VENDING APPLICATION REQUIREMENTS

- A. Application for a Mall/Concourse vending license shall be made each vending year and shall be submitted to the Director of Planning and Development, or designee along with the appropriate license fee as established by ordinance. Monthly licenses can be renewed throughout a vending year by paying the requisite fee without filing a new application, as long as the information on the original application continues to be correct. The license fee is non-refundable except that in the event that there are no sites available to be assigned and the applicant chooses not to be on the waiting list, a refund shall be provided upon written request of the applicant.
- B. Each application shall contain the name of the cart or vending operation, the full name, address, date of birth and driver's license number or state ID of one primary vendor, and the applicant's Wisconsin Seller's Permit Number (state tax identification number). Where the vendor is a corporation, cooperative or partnership, the legal name and address of the business entity and the name and address of the registered agent, chief officer, or general partner, as appropriate, must also be provided on the application. The primary vendor listed on all applications shall be designated the vendor of record for purposes of all official correspondence and contact from the City relating to the vending operation.
- C. Each applicant shall specifically identify and describe by category all personally prepared food/handmade craft items to be sold and shall be required to sign a declaration that the items he/she seeks a license to vend are of the vendor's own creation and are produced by the vendor. The declaration shall further state that all vendors agree to personally create/prepare any craft/food item offered for sale and to demonstrate the use of the tools for his/her craft in the creation of items sold on demand, in the presence of City representatives.
- D. An applicant for a State Street Mall/Capitol Concourse Vending License who intends to sell from a cart or a non-cart vending set-up shall include with the application form a graphic representation of the cart intended for use including all relevant dimensions. Pursuant to Section IV.A. above, the Director of Planning and Development, or designee may inspect and approve the actual cart or vending set-up for compliance with Section VIII and Section VII, respectively, of these regulations before the cart will be permitted to take part in the Food Review or to be placed on the Mall/Concourse area.
- E. An applicant for a food vendor license must also submit with the application a copy of the applicant's current valid food and drink permit and mobile restaurant base license, indicating City of Madison Health Department approval, and evidence of approval of the Building Inspection Unit of the Department of Planning and Development. All food vendors applicants shall state on their applications that they have a 2A-10B:C fire extinguisher on site, and a 40B:C fire extinguisher if the vendor intends to operate equipment that utilizes combustible cooking media (vegetable or animal oils or fats or other cooking oils).

- F. Any material omission, misstatement or misrepresentation in the application or supporting documents shall be grounds for suspension under Sec. 9.13, Madison General Ordinances.
- G. All Mall-Concourse vending applications shall include a space or spaces for the vendor to list his/her top three (3) choices of vending sites, identified by number or letter according to the most current vending site map available at the time the application is made.

XII. VENDING LICENSE REQUIREMENTS

Each State Street Mall/Capitol Concourse Vending License shall contain the following information on its face, in addition to any other information required by ordinance:

- A. Duration of the validity of permit including expiration date.
- B. Designation of "food vendor", "arts and crafts vendor", "merchant vendor", "sidewalk café" or "Senior Citizen vendor. "
- C. Name of the individual vendor, up to two primary vendors for an arts and crafts vending license, or in the case of a license issued to a corporation, cooperative or partnership, the name of the corporation, cooperative or partnership, the designated primary vendor, and the registered agent if applicable.
- D. A list of categories of hand-crafted goods to be offered for sale or in the case of food vendors, a list of all personally-prepared food items that have been approved for sale by that vendor. Minor changes in food items (such as adding or changing a beverage approvable under 9.13(6)(e)7., or a change to an ingredient in an approved food item) may be approved by the Vending Coordinator, provided the change does not substantially alter the nature and character of the vending operation as previously rated by the Food Review Panel. All requests for changes in designated goods and food must be accompanied by a ten dollar (\$10.00) license change fee and require written approval of the Vending Coordinator.
Note: The definition of "personally prepared food" includes only certain food and beverages and is found in section 9.13(6)(e)7., MGO.
- E. Address of the individual/primary vendor, and address of registered agent if applicable.
- F. Whether electrical service is approved.
- G. Designation of assigned vending site(s), if applicable.

XIII. SIDEWALK CAFES AND MERCHANT VENDORS - SPECIAL REQUIREMENTS

In addition to the general requirements set forth in sec. 9.13 of the Madison General Ordinances, and Sections XI and XII of these regulations, an applicant for a sidewalk café or merchant vendor license shall comply with the following special provisions:

A. Requirements for Approval of Sidewalk Café and Merchant Vendor Sites.

1. Application. Each applicant for a sidewalk café or merchant vendor license shall submit an application to the Director of Planning and Development, or designee on a form prescribed by the Vending Oversight Committee (VOC). The application shall contain the information required by sec. 9.13(6)(i)1.b., any additional information required by the Director of Planning and Development, and: a diagram of the site showing proposed arrangement of furniture, tables and other equipment, including all details of the site such as the location of curbs, trees, poles, benches, gratings, street furniture, fire hydrants and store fronts and other amenities. The diagram must be drawn to exact scale on an 8.5" x 11" piece of paper with the scale clearly indicated on the face of the drawing. Pictures of the type of equipment proposed for use shall also be attached. Additionally, an application for new and returning sidewalk cafes shall include photograph(s), catalogue page(s) or detailed renderings of the tables, chairs barriers or other furniture or equipment being considered for use, with dimensions and color included.
2. ADA compliance. The proposed arrangement of furniture and equipment shall comply with any applicable Americans with Disabilities Act (ADA) design and access standards and allow safe and comfortable movement of customers within the site. See also Paragraph D of this Section, allowing temporary adjustments to sidewalk café and merchant vendor sites to accommodate persons with disabilities.
3. Equipment placement. All tables and chairs in a sidewalk café must be placed in front of the business and within the extended property lines which run at right angles to the street of the business establishment associated with the sidewalk café.

Sidewalk cafes may not be located nearer than two (2) feet from the curb. Except for sidewalk cafes described in MGO sec. 9.13(6)(j)2.e., sidewalk cafes must be no closer to the building line opposite the curb than the glitter lights located on the State Street Mall and Capitol Concourse or the tree line on the approaches thereto and must allow at least six (6) feet of unobstructed pedestrian way between the building face and the site. See MGO sec. 9.13(6)(j)2.e. for additional placement options for cafés on certain streets.

4. The Director of Planning and Development, or designee will report all completed and approved applications and licenses issued by the City Clerk

in the monthly report of the Director of Planning and Development, or designee to the VOC and Common Council.

B. Sidewalk Café Furniture, Other Equipment and Signage

1. Tables in sidewalk cafes shall be no more than thirty-two (32) inches in diameter unless otherwise authorized by the VOC based on the size and configuration of the site. All tables and chairs must be removed daily unless permitted to remain pursuant to a privilege in streets permit. Tables and chairs must be weatherproofed, attractive and in good repair and made of a sturdy and safe material. All sidewalk café furniture and equipment shall be maintained in an attractive and presentable condition. Items that become weathered or worn shall be repaired or replaced within sixty (60) days of written notification from the Vending Coordinator or other designee of the Department. Failure to comply with the written notice may result in further enforcement action; however, nothing in this paragraph shall limit the authority of the City to enforce violations of this or any other regulation through citation or other means.

Plastic furniture is prohibited. Furniture or enclosures containing some elements of resin may be approved, depending upon the quality and integrity of design. The vendor should take into consideration the urban design of the area when planning furniture design. It is recommended that the furniture be representative of the business establishing the café.

2. Umbrellas must be anchored in such a way that sudden bursts of wind will not lift them out of their holders. Umbrella color and design should be consistent with the furniture and urban design of the area. The umbrellas used should not exceed the area covered by the tables and chairs.
3. Any street graphics or other signage, including on umbrellas, shall comply with Chapters 28 and 31 of the Madison General Ordinances, any other applicable ordinances, and applicable state law.
4. The licensee shall provide adequate, covered trash receptacles and shall maintain the site in a clean, orderly and litter-free manner.
5. Enclosures. All sidewalk cafés shall be enclosed on all sides. Enclosures shall have at least one (1) and not more than two (2) unobstructed entrances of at least three (3) feet and no more than six (6) feet in width. Enclosures shall be between thirty-six (36) and forty-two (42) inches in height, may be flush to the ground, and the bottom of the structure shall be no more than six (6) inches from the ground. All sides of the enclosure shall be constructed of a stable, rigid, wind-resistant, self-supporting framework, capable of maintaining all furniture and other objects within the confines of the café and free from any supporting structures which may cause a tripping

hazard either within or outside of the café. Hanging elements such as chains or ropes shall not be considered sufficiently stable enclosures under this paragraph. The café owner should take into consideration the café furniture design (see B.1. above) and the overall urban design of the area when planning and installing the enclosures. Where sidewalk cafés may be located next to a building, (see MGO 9.13(6)(j)(2).e.) the building wall may serve as one side of enclosure and additional connecting enclosures shall be flush against the building wall. For all other cafés, the interior face of the enclosure on the street side shall be no closer than two (2) feet from the curb or the pavement markings delineating the edge of the roadway if there is not a raised curb. All enclosures, whether required or voluntarily erected, must be removed daily.

Additionally, all enclosure material must be weatherproofed, attractive and in good repair. All enclosure materials shall be maintained in an attractive and presentable condition. Enclosures that become weathered or worn shall be repaired or replaced within sixty (60) days of written notification from the Vending Coordinator or other designee of the Department. Failure to comply with the written notice may result in further enforcement action; however, nothing in this paragraph shall limit the authority of the City to enforce violations of this or any other regulation through citation or other means.

6. **Decorative Lighting.** Low-voltage, battery or solar powered light strings or other decorative lighting may be used on sidewalk café enclosures and umbrellas. Any such lighting shall be securely fastened to the enclosure or umbrella, so that it does not blow or swing in the wind, and shall not hang in such a way to create a hazard. No such lighting or other decorative features or cords shall be strung from the building or any public amenity. In no case shall any lighting or other electrical devices that must be plugged in to a power source, or any extension cords, be used within the café, on an umbrella, or on the surrounding sidewalk, for any reason.

C. Merchant Vendors Equipment and Display Units

In addition to the restrictions found in sec. 9.13(6)(j)1, the following standards shall apply to all merchant vendors on the State Street Mall/Capitol Concourse (Mall/Concourse):

1. **General.** Merchandise and any allowable graphics or signage shall be displayed in a manner in which attention to it is not focused from the street. Merchandise must be neatly displayed.

2. Display Units. Display units allowed in a merchant vending site shall be limited to table or clothes racks or a combination of both, in the following dimensions:

Tables: No more than 30 inches wide and 8 feet (96 inches) long, and 29 inches high.

Clothes racks: No more than 30 inches wide and 6 feet (72 inches) long and 6 feet high.

The maximum number of display units that may be displayed within the merchant vending site shall be determined by the width of the merchant vendor’s storefront street frontage, as follows:

<u>Store Front Width</u>	<u>Display Units</u>
Small (24 feet or less)	2 units or 50% of the linear footage, whichever is less
Medium (25-49 feet)	3 display units
Large (50 feet or more)	4 display units

3. Height. Any stacks of merchandise may not exceed eighteen (18) inches in height. In no case shall any signage or display apparatus or the total height of vending tables or equipment and merchandise exceed a height of seventy-two (72) inches from the ground to the highest point.

4. Storage. Storage shall not be permitted at the vending site except for items placed under vending tables which have been skirted with fabric of sufficient width to completely shield the storage from view. Skirting fabric shall be securely attached to the vending table with clamps or other fasteners.

D. Accessibility to Sidewalk Café and Merchant Vendor Sites. The enclosure and equipment placement requirements of this Section XIII and Sec. 9.13 may be modified as needed to provide a Reasonable Accommodation as may be required by law. Regardless of whether a Reasonable Accommodation is requested or required, Sidewalk Café operators and Merchant Vendors may temporarily modify sidewalk café enclosures, furniture, or other vending equipment, including temporarily modifying the approved boundaries or required enclosures of a sidewalk café or merchant vendor site, to make the vending site physically accessible to a customer. Any equipment or enclosure that is moved for this purpose shall be returned to its approved location once the accommodation or modification is no longer needed. However, no modification or accommodation under this paragraph shall decrease the minimum pedestrian walkway on the public sidewalk nor the minimum distance from the adjacent street curb or pavement

markings delineating the edge of the roadway if there is no raised curb, as required in sec. 9.13 and elsewhere in these Regulations.

- E. If a Sidewalk Café licensee or Merchant Vendor chooses to set up their café or merchant vending equipment before 9:30 a.m., the license holder must sweep and remove all debris and litter from the entire sidewalk area that corresponds to the street frontage of their place of business.

PROVISIONS FOR SPECIFIC HANDCRAFTED GOODS

BEADWORK

Beadwork is defined as a product of weaving and/or sewing beads to fashion goods. Plain strands of commercial beads may not be sold. Any pendant or other item incorporated into the article sold, must meet the criteria of other arts or crafts, as appropriate, set forth in these regulations.

BOOKS AND PUBLICATIONS

All writing must be original work of the author-vendor (except for books or publications illustrated entirely by a licensed artist-vendor, as allowed under "Painting and Drawing"). All sales must be made with the author-vendor (or artist for illustrated books/publications) present at the vending site.

CALLIGRAPHY

All lettering must be done by hand. Any stencil for reproduction must be completely the vendor's own work, and all reproduction, itself, must be by the vendor's own efforts. Photocopying or commercial printing are prohibited.

CANDLES

Wax, as raw material, is changed into a variety of forms by direct manipulation. Commercial molds may be used as a core in the process, but the finished candle must be an original design. When using commercial molds, the use of scent and/or color is not a sufficient change to qualify as an original candle.

CASTINGS AND SCULPTURES (INCLUDING CERAMICS)

If the finished item is produced by starting from raw materials by fabrication, or if the item is made by the craftsperson from a mold of his/her own original art work and making, it is then considered handcrafted. Ceramic glazes containing lead will not be allowed.

COMPACT DISCS (CD'S)

Compact Discs, Digital Video Discs (DVDs) or any other forms of recorded digital or analog media that are created or compiled by the arts and crafts vendor are considered handcrafted goods under this section.

DECOUPAGE

Craftsperson must use original work or original photography.

DOUGHCRAFT

The rules for CASTINGS AND SCULPTURE apply.

ENAMELING

Designs must be original work by the artist, commercial stencils are unacceptable.

FEATHER ART

Featherwork should be an original design by the craftsperson using feathers and other accessories. Pre-strung boas, pre-glued mats, and other pre-constructed pieces are unacceptable. No items containing feathers from endangered species shall be allowed.

FRUITS AND VEGETABLES

Hand-grown fruits and vegetables shall not be considered handcrafted goods under this section.

GLASS

Blown glass is heated and hand blown by the artist. Stained glass is cut by hand and painted or silk screened or arranged to produce a design or pattern. The craftsperson may use sheet, slab, or other glass materials and change shape, design, or form to create a finished product.

GREETING CARDS

The greeting card must meet the handmade criteria of photography, calligraphy or other craft described in these regulations. All art, photography and design must be completely the vendor's own work, and all reproduction must be by the vendor's own efforts. Photocopying or commercial printing are prohibited.

JEWELRY

1. Jewelry items sold on the State Street Mall/Capitol Concourse will be limited to handcrafted jewelry which is fabricated and/or cast from metals or raw materials by the artist.
2. Chains may be used only in conjunction with completely handmade items, unless the links are hand wrought.
3. No commercial castings or settings are acceptable.
4. No commercial pendants, hanging crystals or bangles are allowed.
5. The craftsperson shall identify metals and stones used in an item to the purchaser on request.

LAPIDARY

The artist must cut and polish all stones, or cut or drill all shells, he/she sells. The artist must be able to demonstrate knowledge of the lapidary tools. If stones or shells are used as part of an item, all component parts that are made by a different craft (wood, leather casting, jewelry, etc.) must meet the criteria of that craft, and must be made by the artist(s) on the vending license.

LEATHER WORK (INCLUDING BELTS AND LEATHER CLOTHING)

All tooling must be done by hand (no machine design work, rolled or clicker allowed). No belt buckles sold separately unless made by the leather craftsperson. Sewing machine applied designs are allowed.

MUSICAL INSTRUMENTS

The rules for CASTINGS AND SCULPTURE or WOODCRAFT apply.

PAINTING AND DRAWING

All work must be conceived and executed by the artist-vendor. Personally signed lithographs of original work will be allowed. Vendors may paint or draw their own original designs onto existing, non-handcrafted objects such as canvas, paper, picture frames, candle sticks, T-shirts, ceramics and pottery. A currently licensed arts and crafts vendor whose artwork is used to illustrate a book or other publication may also offer for sale that book or publication if the artist-vendor is the sole illustrator of the book/publication and if the artist-vendor is externally credited by name on the cover of the book/publication. Alterations to another artist=s existing work or reproductions of another artist= work, including but not limited to alterations to photographs, paintings, drawings or postcards; are not allowed. Commercially manufactured stencils, decals, appliques, patches or stickers may not be used. All sales must be made with the artist-vendor present at the vending site.

PHOTOGRAPHY

The artist/crafts person must be the original photographer of the subject and must perform all phases of the developing and printing process.

PLANTS, CUT FLOWERS AND DRIED FLOWERS

Plants must be grown from seeds or cuttings by the craftsperson/licensee. Containers may be undecorated mass produced plastic, clay or metal; handcrafted by the craftsperson and meet the criteria for that medium; or natural objects found by the craftsperson. All dried flowers must be

collected and not purchased, unless the container has been handmade. All cut flowers are acceptable.

POTTERY

The potter must produce original pieces by hand building or "throwing" on a potter=s wheel. The potter must supervise the firing process.

SEWN ITEMS (INCLUDING PUPPETS AND/OR DOLLS)

Any item produced by beginning with a basic fabric, cutting and sewing it together to produce a finished product is acceptable. Application of mass-produced commercial patches or iron-ons to a manufactured item is unacceptable.

TERRARIUMS

Terrariums must be planted by the craftsperson or, in the case of unplanted terrariums, they must be constructed from raw materials. Bottles alone are unacceptable.

TEXTILE ARTS

The craftsperson must, by hand, create the entire design to be applied, including lettering where lettering takes up over 50% of the design space. If lettering constitutes less than 50% of the design space, the craftsperson may use commercial press type letters. The craftsperson must individually prepare, burn and/or cut any stencil and must apply the design by direct application or transfer using stencils, batch silkscreen, air brush, block printing, tie dying or drawing. Mass-produced commercial decals are prohibited. All embroidery must be hand sewn; no machine work is permitted. Other businesses may not be engaged to mechanically produce or apply the craft person=s original design(s) to T-shirts, hats or other textiles. Alterations to another artist=s existing work or reproductions of another artist= work, including but not limited to alterations to photographs, paintings, drawings or postcards; are not allowed. All sales must be made with the artist-vendor present at the vending site.

TOYS

Toys must contain no toxic materials. Toys are generally covered under the rules for CASTINGS AND SCULPTURE, SEWN ITEMS and WOODCRAFT. All other toys will be covered under general criteria set forth in MISCELLANEOUS items. The vendor will conform to all applicable federal and state safety requirements.

WOODCRAFTS

Craftsperson must start with a rough piece of wood, slab or log and change the shape of the wood to a finished product. Staining a pre-cut or pre-routed shape is not considered a handmade craft.

YARN/CORD

Macrame, crochet, knitting, weaving and other yarn/cord crafts start with unknotted cord, string, rope or yarn producing a finished product using a series of knots, braids and weaves with the option of other materials. Yarn and cord spun and dyed by the craftsperson can be sold unknotted and unbraided.

MISCELLANEOUS

Any good created and produced by the vendor from raw or basic materials changing those materials into a significantly different shape, design, form or function shall be considered handcrafted for purposes of these regulations. Any commercially produced item which forms a significant part of the good shall be substantially changed in function or character. Any purchased kit or purchased assortment of unassembled components, not handcrafted by the licensee and not requiring any design decisions by the licensee shall not be considered handcrafted regardless of whether it is assembled by hand by the licensee.